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In re Application of :
Michael Econs et al :
Serial No.: 09/901,938 : PETITION DECISION
Filed: July 10, 2001 :
Attorney Docket No.: 053884-5001 :

This is a response to the petition under 37 CFR 1.59(b), filed January 19, 2005 to expunge information from the above identified application.

Petitioner requests that an Examiner created Interview Summary Record, mailed June 22, 2004, be expunged from the record. Petitioner does not state either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The purpose of a petition to expunge is to allow submission by applicant of information which may be material to the examination of an application, but which is not available to the public. Applicants request in this instance that an examiner created document be expunged from the record. Documents created by the examiner reflect the position of the Office with respect to prosecution of an application and removal of such documents would be inappropriate except in instances where derogatory comments or inappropriate personal attacks are made. In such instances redaction of the document may be in order.

A review of the Interview Summary Record in question does not show that any derogatory comments or personal attacks are set forth. What is shown is a report of a telephonic interview between applicants' attorney and the examiner followed by a second telephonic interview between applicants' attorney and the examiner's Supervisor. In both instances, the result of the interview was the same and is reflected in the Interview Summary Form mailed to applicants.

As with any interview there may arise differences of opinion as to what occurred or what, if any, agreements were made. For that reason the Interview Summary Form includes as the last paragraph of the first page a requirement for applicants to provide a summary of the interview in the next Office action response or, if a response has already been made, within one month from the date of the interview. It appears that applicants did not provide any such comments within the time period set. The examiner then mailed a new non-Final Office action to applicants on July 23, 2004..

The petition to is **DENIED** for the reasons set forth above.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.


Jasemine C. Chambers
Director, Technology Center 1600